

OFFICE OF THE CLERK
UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

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NOTICE OF ADOPTION

Amendment of Local Rules and Forms:

1005-1, 1009-1, 2016-1, 2090-2, 3015-1, 3015-2, 3015-3, 4001-1, 4001-3, 5001-2, 6004-1,
7016-1, 7026-1, 9010-1, 9013-1, 9013-3, Appendix IV,
R.I. Bankr. Forms C.2, O.2, U, V, W, X and Y

Pursuant to 28 U.S.C. §2071, Fed.R.Civ.P. 83, Fed.R.Bankr.P. 9029, and the November 11, 1990 Order of the U.S. District Court Authorizing Promulgation of Local Bankruptcy Rules, the U.S. Bankruptcy Court for the District of Rhode Island hereby provides notice that the Local Rules and Forms listed above have been amended.

Copies of the amended local rules and forms are available at the Clerk's office or on our website at www.rib.uscourts.gov. These amendments shall take effect immediately, and shall apply to all cases filed on or after this date, and all cases pending in this court as of this date.

December 1, 2001

FOR THE COURT

Susan M. Thurston, Clerk

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND**

AMENDED LOCAL RULES AND FORMS

December 1, 2001

RULE 1005-1 FILING PAPERS - REQUIREMENTS

- (a) **Caption of Papers.** The bankruptcy case name, number, and chapter shall appear on all papers filed with the Clerk and must also appear on the signature page of all documents filed with the court.
- (b) **Size and Form.** All papers, including the bankruptcy petition, schedules, statements, lists and other papers shall be on 8 ½" x 11" paper. All papers other than the bankruptcy petition and related schedules and lists shall not contain typeset less than 11 point, with the exception of footnotes which shall not be less than 10 point, and may not contain material that belongs in the body of the text or argument. All such papers shall be double spaced, with the exception of quotations and footnotes.
- (c) **Number of Copies.** For cases filed under any chapter of the Bankruptcy Code, the original and two copies of all papers filed, including motions, objections, responses and supporting memoranda shall be filed with the Court. Excepted documents, which require the filing of the original only, include: (1) the proof of claim form; (2) a chapter 7 trustee's report of no distribution; (3) minutes of the Section 341 meetings; (4) final reports and accounts in chapter 13 cases; and (5) notices of appearance and requests for notice.
- (d) **Required Signatures and Identifying Information.** Each original paper filed with the Clerk shall include the filer's name, original signatures, address, telephone number, facsimile number, and if an attorney, the law firm's name, the attorney's state bar identification number, and the name of the client.
- (e) **Required Response Time Language Must Be Included on All Papers.**
 - (1) **Usual Papers.** In order to provide adequate notice to interested parties of the time to respond, every motion (except motions for relief from stay and those set forth in paragraph (2) below), application, petition (not including bankruptcy petition), objection to claim or objection to exemption filed with the clerk's office shall contain language substantially similar to the following, in single or double space and must appear in at least 11 point type:

Within ten (10) days after service as evidenced by the certification (twenty (20) days for U.S. Government officers and agencies thereof), and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Bankruptcy Court Clerk's Office, 380 Westminster Mall, 6th Floor, Providence, RI 02903, (401) 528-4477. If no objection or other response is timely filed within the time allowed herein, the paper will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise.

- (2) **Excepted Papers with Different Response Times.** A different objection/response time applies to the following matters and should be substituted for the ten (10) day period above:

- (A) Application to Compromise -- 20 days;
- (B) Motion/Notice of Intended Sale -- 20 days;
- (C) Motion to Amend or Modify a Plan -- 20 days;
- (D) Application (or Notice) to Abandon -- 15 days;
- (E) Motion to Shorten Time (Expedited treatment) -- 5 business days;
- (F) Emergency Motion for Relief -- left to discretion of Court, above language should *not* be used;
- (G) Motion for Rule 2004 Examination -- *see* R.I. LBR 2004-1(c)(2).

- (3) **Objection to Claim.** *See* R.I. LBR 3007-1.

- (4) **Objection to Exemption.** *See* R.I. LBR 4003-1(b).

- (5) **Relief from Stay Excluded.** The above language should not be used for motions for

relief from stay, which are governed by the time periods contained in the Summons and Notice of Trial.

- (f) **Filings Made on Day of Court.** An intended filing related to a matter on for hearing that day, shall be filed in open court and not with the clerk's office.
- (g) **Caption of Amendments.** Any paper filed to effect an amendment of a previously-filed or served paper, including bankruptcy petition, lists, schedules, and statements, shall clearly state in bold print that it is an amendment. Any amendment adding creditors to the case shall be accompanied with the appropriate filing fee, and a supplemental diskette containing *only* the names and addresses of the added creditors. *See also*, R.I. LBR 1009-1.

RULE 1009-1 AMENDMENTS OF PETITIONS, LISTS, SCHEDULES AND STATEMENTS

- (a) **Procedure, Form and Number of Copies.** Amended bankruptcy petitions, schedules, statements of financial affairs, statements of income and expenses, and summaries of assets and liabilities shall be filed with the Clerk, accompanied by a statement of the purpose the amendment is intended to serve. The amendment shall be underlined and in italics to identify the added or changed information, and shall be filed with the same number of copies as are required for the filing of the petition under R.I. LBR 1002-1(c). The amended paper shall contain an original signature by the amending party. The amending party shall attach to the amended papers one signed affirmation relating to all the amended pages in the same form as required on the original papers.
- (b) **Notice and Service of Amendment.** In each instance in which the debtor amends its petition, lists, schedules or statements, it shall give notice by serving a copy of the amendment and the statement of the purpose of the amendment upon any trustee appointed, the local office of the United States trustee, and to all other entities directly affected by the amendment, and shall file a certificate of service indicating the parties served and the date and method of service.
- (c) **Amendments Adding an Omitted Creditor.** If, at any time after the first notice of the first meeting of creditors is mailed, pre-petition creditors not previously included on the mailing matrix are added by amendments, the following procedures shall apply:
 - (1) Contemporaneous with the filing of the motion to amend, the debtor shall file a supplemental disk, listing only the name(s) and address(es) of the added creditor(s) in the

form prescribed by R.I. LBR 1002-1(d);

- (2) Upon court approval of the motion to amend, the clerk's office shall serve upon said creditors:
 - (A) A copy of the amendment and the statement of purpose, together with a copy of the original Notice of Section 341 meeting of creditors; and
 - (B) If an asset case, a notice informing the creditor of its right to file a Proof of Claim within ninety (90) days of service of the papers required by this LBR or within the time set for the filing of Proofs of Claim by creditors previously scheduled, whichever is later, or within such other time as allowed by Fed. R. Bankr. P. 9006(c) and as ordered by the Court; and
 - (C) In a chapter 7 case, a notice informing the creditor of its right to file complaints under 11 U.S.C. §§ 523 and 727, and objections to the debtor's claim of exemptions within sixty (60) days of service of the papers required by this LBR or within the time set for the filing of such complaints or objections by creditors previously scheduled, whichever is later.
- (3) The extensions of deadlines granted by this LBR shall apply only to those creditors added by amendment.
- (4) Creditor(s) added after the Section 341 meeting of creditors has commenced shall, unless the Court orders otherwise, be entitled, upon request to the U.S. trustee, to reconvene the Section 341 meeting.
- (5) In an individual chapter 7 case in which there is no distribution to creditors, if a creditor is added after the order of discharge is entered, the order of discharge shall be deemed to apply to the prepetition debts owed to such creditor as of the later of:
 - (A) 60 days after the date the debtor certifies compliance with paragraphs (1) and (2) above, and no complaints under 11

- U.S.C. §§ 523 and 727 are filed by such creditor; or
- (B) the date the last orders denying or dismissing such complaints become final.

RULE 2016-1

COMPENSATION FOR SERVICES RENDERED AND REIMBURSEMENT OF EXPENSES

- (a) **Application for Compensation of Professionals, including Chapter 11 and Chapter 7 trustees.** In addition to the provisions of Fed. R. Bankr. P. 2016, each application and any attachments shall:
- (1) be legible and understandable;
 - (2) identify the time period or periods during which services were rendered;
 - (3) describe the specific services performed each day by each person with the time broken down into units of tenths of one (1) hour devoted to such services;
 - (4) include a copy of any contract or agreement reciting the terms and conditions of employment and compensation;
 - (5) include a copy of the order authorizing the employment;
 - (6) include the date and amount of any retainer, partial payment or prior interim allowances;
 - (7) include a brief narrative description of services performed and a summary of hours by professionals and other personnel;
 - (8) if the trustee is also serving as his or her own attorney, the trustee's attorney's application must contain a certification that no compensation has been or will be sought for services as an attorney which are properly trustee services; and
 - (9) include a brief biography of each person included in the fee application, stating his or her background and experience. The statement should demonstrate that the hourly rate charged for each professional is reasonable, and should include such information as the applicant deems pertinent to that issue. After the initial application, biographies need not be included in subsequent applications, other than for professionals whose biographies were not included in the initial application. With respect to professionals who have previously filed such a biography with this Court, he/she may indicate that fact on the application and need not repeat said biography unless the Court so orders.
 - (10) include the fee application summary sheet contained in ***R.I. Bankr. Form C.2***, which summary shall also include a key to the initials or

other device used to identify each such person in itemized billings.

RULE 2090-2

DISCIPLINARY PROCEEDINGS

- (a) An attorney who appears for any purpose in any case or proceeding submits himself or herself to the Court's disciplinary jurisdiction and shall be held to the standards of professional conduct set forth in District Court Local Rule 4.
- (b) In any matter in which a bankruptcy judge has reasonable cause to believe that an attorney has committed a violation of any canon or ethical rule, the bankruptcy judge may refer the attorney for disciplinary proceedings to the District Court pursuant to District Court Local Rule 4 and to any state disciplinary authority. In connection with any such referral, the bankruptcy judge may recommend expedited interim action by the District Court and the state disciplinary authority if in the opinion of the bankruptcy judge such action is necessary to avoid an imminent risk of harm to the public.
- (c) A bankruptcy judge may impose any other sanction the judge deems necessary under the circumstances in accordance with the relevant statutes, rules of this Court and the District Court, or applicable law.

RULE 3015-1

CHAPTER 13 – PLAN

- (a) **Form of Plan.** A Chapter 13 plan shall conform to RI Bankr. Form W, with such alterations as may be appropriate to suit the circumstances. Additionally, each plan shall contain the following:
 - (1) **Signature(s).** Every plan or amendment thereto shall be signed by the Debtor, and
 - (2) **Date.** Every plan or amendment thereto shall be dated as required by Fed. R. Bankr. P. 3015(c).
- (b) **Filing the Chapter 13 Plan and Petition Simultaneously.** If the petition and plan are filed simultaneously, the debtor's attorney, or the debtor, if pro se, must mail, by first class mail, a copy of the proposed chapter 13 plan, a proof of claim form, and the Notice of chapter 13 filing as set forth in **R.I. Bankr. Form G**, to the chapter 13 trustee, all creditors and all interested parties within twenty-four (24) hours of filing the petition.
- (c) **Filing the Chapter 13 Plan Subsequent to the Petition.** If the chapter 13 plan is not filed with the chapter 13 petition, then within twenty-four (24) hours of filing the petition, the debtor's attorney, or the debtor, if pro se, must:
 - (1) Notify the chapter 13 trustee, all creditors and all

interested parties by first class mail that a petition under chapter 13 has been filed. This shall be accomplished by serving the “Notice of Chapter 13 Filing” included as R.I. Bankr. Form G to these LBR’s, and a proof of claim form on the chapter 13 trustee, all creditors, and all interested parties; and

- (2) Within twenty-four (24) hours of filing the chapter 13 plan, the debtor’s attorney, or the debtor, if pro se, shall mail, by first class mail, a copy of the plan and a proof of claim form to the chapter 13 trustee, all creditors and all interested parties.

(d) Conversion of Case to Chapter 13.

- (1) Within forty-eight (48) hours of the conversion of the case to chapter 13, the debtor’s attorney, or the debtor, if pro se, must serve by first class mail a copy of the “Notice of Conversion to Chapter 13” (included as **R.I. Bankr. Form H** to these LBRs), a copy of the proposed chapter 13 plan, and a proof of claim form on the chapter 13 trustee, all creditors, and all interested parties.

- (2) If the chapter 13 plan is not filed at the time of the conversion, then within twenty-four (24) hours of filing the plan, the debtor’s attorney, or the debtor, if pro se, must serve by first class mail a copy of the plan and a proof of claim form on the chapter 13 trustee, to all creditors, and all interested parties.

- (e) **Certificate of Service.** Within fifteen (15) days of service, the debtor’s attorney, or the debtor, if pro se, must file a certificate of service certifying that a copy of the Notice of Chapter 13 Filing or Notice of Conversion to Chapter 13, a proof of claim form and the chapter 13 plan have been served by first class mail upon the chapter 13 trustee, all creditors and all parties-in-interest.

RULE 3015-2 CHAPTER 13 - AMENDMENTS TO PLANS

(a) Amendments to Plan Prior to Confirmation that do not Adversely Affect Creditors.

- (1) **Without Leave of Court.** Amendments to a plan which do not adversely affect creditors may be made at or prior to the Section 341(a) meeting without leave of Court by a separate pleading entitled “Modification of

Plan,” which shall be filed with the Court and served on the Chapter 13 trustee and any party or attorney who has filed an appearance and requested service of pleadings in the case. Those parts of the amended plan that are changed from the previous plan shall be clearly identified.

- (2) The modification shall be accompanied by a certificate of service. If no objections to the modification are filed within ten (10) days after service or at the hearing on confirmation, which ever occurs sooner, the Court shall consider confirmation of the plan as amended.

(b) Amendments to Plan that Adversely Affect Creditors Filed within Ten (10) days of the Confirmation Hearing.

- (1) **The Amended Plan.** Where an amendment to a plan adversely affects creditors, the Debtor shall file with the Court an amended plan and those parts of the amended plan that are changed from the previous plan shall be clearly identified.
- (2) **Service.** The Debtor shall serve a copy of the amended plan on the Chapter 13 trustee, all creditors, and all parties and attorneys who filed appearances and request for service of all pleadings in the case. The amended plan shall be accompanied by a certificate of service.
- (3) **Time to Object and Effect on Confirmation Date.** If the confirmation hearing is scheduled to occur within ten (10) days of the filing of the amended plan, said hearing shall be continued to the next available hearing date assigned by the Clerk’s office. It shall be the responsibility of the Debtor’s attorney, or debtor, if pro se, to serve notice of the rescheduled confirmation hearing date on all creditors and on all parties and attorneys who have filed appearances or requests for service of pleadings in the case. The hearing notice shall be accompanied by a certificate of service filed with the Clerk’s office.

(c) Amendments to Plan After Confirmation

- (1) **Motion to Amend Plan Required.** A debtor who seeks to amend a Chapter 13 plan after confirmation shall do so by filing a motion to amend the plan with a copy of the proposed amended plan attached. The

motion to amend shall include a summary and statement of the reason for the amendment and those parts of the amended plan that are changed from the previous plan shall be clearly identified.

- (2) **Updated Schedules I and J Required.** In conjunction with the motion to amend, the Debtor shall file updated Schedules I and J if plan payments are changing under the terms of the amended plan. The Chapter 13 trustee, in his or her discretion, may schedule a new Section 341 meeting with respect to the amended plan.
- (3) **Service.** The Debtor shall serve a copy of the motion, amended plan, updated Schedules I and J (if applicable), and a Statement in Support of the Amendment on the Chapter 13 trustee, all creditors, and parties and attorneys who have filed appearances and requests for service of pleadings in the case. In the event that the Debtor proposes more than one amended plan, each amended plan shall be titled “First Amended Plan,” “Second Amended Plan,” and so on, as may be appropriate.
- (4) **Hearing on Amended Plan.** Approval of an amended plan after confirmation of a prior plan may be granted without a hearing if no objections are timely filed. Objections to an Amended Plan shall be filed no later than ten (10) days from the date of service of the motion to amend. The Chapter 13 trustee shall provide the court with a written statement of his position on all motions to amend the plan after confirmation, within the ten (10) day objection period. In the event that no objections to the motion are timely filed, the Court may, in its discretion, grant the motion to amend, without an actual hearing. If a party in interest files a timely objection to the motion, the Court shall set the motion and objection for hearing.
- (d) **Form of Order. R.I. Bankr. Form X** shall serve as the form of order for all Chapter 13 confirmations, with such modifications thereof as appropriate. The Chapter 13 trustee is responsible for preparation of the proposed order confirming an amended plan. Service and submission of the proposed order shall be in accordance with R.I. LBR 9072(b)-1.

- (e) **Modification of Secured Claim -- Separate Motion Required.** A debtor who, as part of a Chapter 13 plan, proposes to modify a secured claim pursuant to 11 U.S.C. §506 shall file a separate motion to that effect. The motion shall be served on the claimant with a copy of the proposed Plan, shall contain the language required by R.I. LBR 1005-1(d) and shall contain, inter alia:
- (A) the name and address of the claimant;
 - (B) an identification of the security held by the claimant; and
 - (C) a description of the manner in which the secured claim is proposed to be treated under the plan.

RULE 3015-3 CHAPTER 13 - CONFIRMATION

- (a) **Pre-Confirmation Conference with Chapter 13 Trustee.** At least forty-eight (48) hours prior to the hearing on confirmation, the debtor's attorney, the debtor, if pro se, and any objector to the Chapter 13 plan are required to confer with the Chapter 13 trustee regarding the proposed plan, its feasibility and permissibility, and any objections to the proposed plan.
- (b) **Objections to Confirmation**
- (1) **Deadline for filing.** Any objections to confirmation of a Chapter 13 plan shall be filed no later than seven (7) days before the hearing date on confirmation.
 - (2) **Service of objections.** An objection to confirmation shall be filed with the Court and served on the Chapter 13 trustee, the debtor, the debtor's attorney, and any other party or attorney who has filed an appearance and requested service of pleadings. The objection shall be accompanied by a certificate of service evidencing compliance with this requirement.
- (c) **Scope of the Confirmation Hearing.** At the hearing on confirmation of a Chapter 13 plan, the Court may consider objections to claims, motions filed pursuant to Fed. R. Bankr. P. 4003, motions for valuation of secured claims, reasonableness of attorney's fees, and any timely filed objections to confirmation of the debtor's plan.
- (d) **Order Confirming Chapter 13 Plan.** **R.I. Bankr. Form X** shall serve as the form of order for all Chapter 13 confirmations, with such modifications thereof as appropriate. The Chapter 13 trustee is responsible for preparation of the proposed order confirming the plan. Service and submission of the proposed order shall be in accordance with R.I. LBR 9072(b)-1.
- (e) **Confirmation of Plan Denied.** If confirmation is denied, the Court

may enter an order dismissing the Chapter 13 case, unless, within eleven (11) days after entry of the order denying confirmation:

- (1) the debtor files a modified plan;
- (2) the debtor moves to convert the case to one under another chapter of the Code;
- (3) the debtor files a motion for reconsideration;
- (4) the debtor appeals the order denying confirmation; or
- (5) the Court otherwise orders.

RULE 4001-1 RELIEF FROM AUTOMATIC STAY

- (a) **Summons Required.** Motions for relief from the automatic stay require the issuance of a “Summons Form” by the Office of the Clerk of the Bankruptcy Court specifying a reply date. If no reply is timely filed, the motion shall be granted pursuant to R.I. LBR 9013-2.
- (b) **Service.** Any party filing a motion for relief from the automatic stay shall serve copies of the motion and the summons on the following parties:
 - (1) the debtor;
 - (2) debtor’s counsel;
 - (3) the trustee if one has been appointed;
 - (4) any official committee appointed and serving in the case under 11 U.S.C. §1102;
 - (5) all parties with liens of record or any other party known to the movant claiming a lien in the property;
 - (6) parties requesting notice;
 - (7) in a Chapter 11 case, the local office of the United States trustee;
- (c) **Manner of Service.** Service of the motion and summons shall be made in accordance with Fed. R. Bankr. P. 7004. The proof of service on the reverse of the summons form must be completed and returned to the Court within twelve (12) days after the motion is filed. Failure to return the proof of service within twelve (12) days will result in the motion being removed from the calendar.
- (d) **Exhibits.** Documents supporting a motion for relief from the stay shall not be attached to the original motion filed with the Court. Counsel shall make reference to each such exhibit, attachment or schedule in the body of the motion so that upon request for their production by the Court, said document(s) may be identified. However, the moving party shall attach all exhibits, attachments and schedules to the copy of

the motion served on all other parties.

- (e) **Liens, Mortgages and Security Interests.** If the movant seeks leave to foreclose upon the mortgage, security interest or other lien upon any interest of the debtor or of the estate in property, the basis for entitlement to relief must be stated with particularity in the motion. At a minimum, the motion shall set forth:
- (1) the value of the subject property and shall comply with R.I. LBR 3012-1;
 - (2) the nature of the movant's interest in the property;
 - (3) the manner in which the movant perfected its interest in the property;
 - (4) all other material liens and encumbrances on the property;
 - (5) the amount of the movant's claim as of the date of the petition; and
 - (6) a specification of pre-petition and post-petition arrearage, costs and interest accruals.
- (f) **Content of Response.** Every response to a motion for relief from the automatic stay shall admit or deny each allegation set forth in the motion and assert such defenses or other matters as may be required to inform the Court of the scope of the issues. If value is at issue, the respondent shall set forth its position regarding value and shall comply with R.I. LBR 3012-1.
- (g) **Joint Pre-Trial Orders.**
- (1) **Filing Requirement.** In all contested motions for relief from stay, the movant shall deliver by hand or facsimile mail, a draft of the joint pre-trial order, in compliance with R.I. LBR 9014-1, and **R.I. Bankr. Form O**, to the respondent within five (5) days after the answer/objection is filed. The respondent shall then submit to the movant, by hand or facsimile mail, any comments or revisions within three (3) business days in order to finalize the document. The joint pre-trial order must be filed with the Court no less than three (3) business days prior to the date set for the preliminary hearing.
 - (2) **Content.** If "adequate protection" is at issue, the respondent shall explain the character of any adequate protection offered in lieu of relief from stay. If the issue of whether the property is necessary to an effective reorganization is in dispute, the debtor must

affirmatively state whether a reorganization plan is in prospect and, to the extent possible, provide a summary of the plan expected to be filed.

- (3) **Failure to File.** If the movant fails to timely file the joint pre-trial order with the Court, the motion for relief from stay will be denied without prejudice and the matter will be removed from the calendar. A new motion for relief and filing fee will be required to reinstate the matter. If either party fails to perform timely under these local rules, any aggrieved party may file a motion to adjudge the other party in default in accordance with R.I. LBR 9014-1.

- (h) **Setoff of Prepetition Tax Obligations.** The Internal Revenue Service is granted relief from stay in individual Chapter 7, 11 and 13 cases for the limited purpose of offsetting refunds for pre-petition years against pre-petition tax indebtedness. The IRS shall amend their claims to reflect any such offset. In addition, nothing in this rule shall prejudice or limit the right of any party to object to a refund or offset of such refund as described herein or to any claim filed by the Internal Revenue Service.

RULE 4001-3 OBTAINING CREDIT

Borrowing or Refinancing of Estate Property. Any motion for approval of a borrowing or refinancing shall include all the material terms of the proposed credit arrangement. A copy of any borrowing agreement shall be attached to the motion.

RULE 5001-2 CLERK'S OFFICE

(a) **Public Hours.** The Clerk's Office is located at 380 Westminster Mall, Sixth Floor, Providence, Rhode Island 02903, (401) 528-4477. Unless otherwise ordered by the Court, the office of the Clerk shall be open to the public from 8:30 a.m. to 4:30 p.m., Monday through Friday, except federal holidays and holidays recognized by the U.S. District Court (which may include state holidays).

(b) **Non Public Hours.** In accordance with Fed. R. Bankr. P. 5001(a), filings before 8:30 a.m. or after 4:30 p.m. weekdays, or on weekends and holidays may be made, for cause shown, by advance appointment or in emergency circumstances with the Judge, the Clerk, or the Clerk's designee.

RULE 6004-1 SALE OF PROPERTY NOT IN THE

ORDINARY COURSE OF BUSINESS

- (a) **Motion/Notice of Proposed Sale of Property (Subject to Liens or Free and Clear of Liens).** The proponent of the sale shall give notice in accordance with Fed. R. Bankr. P. 2002(a)(2) and 6004(c), and R.I. LBR 2002-1, when proposing to sell property other than in the ordinary course of business, and shall file with the Clerk a certificate of service.
- (b) **Scope and Content of Notice.** The motion/notice shall include a summary of the terms and conditions of the proposed sale, a statement of the aggregate amount of liens or encumbrances known to movant, and a statement that the proposed sale price is at least equal to or more than the value of the property. The notice may provide that, absent timely objection, the proposed sale be considered without a formal hearing.
- (c) **Notice of Sale in Chapter 11 Cases.** In chapter 11 cases in which all or substantially all of the assets of the debtor are being sold, except sales under a confirmed chapter 11 reorganization plan, an advertisement of said sale shall be placed in a local newspaper of general circulation. Upon application to the Court, this requirement of advertising may be waived in appropriate circumstances.
- (d) **Sale of Estate Property in Chapter 13 Cases.**
 - (1) Any sale of the property of the estate outside the ordinary course of business in Chapter 13, including but not limited to, the Debtor's principal residence, real property, or other property being sold for \$2,000 or more must be approved by the Court after notice and a hearing. A motion for such approval shall be made in accordance with 11 U.S.C. § 363, Fed. R. Bankr. P. 4001 or 6004, and subsections (a) and (b) of this rule, as applicable. The motion to sell shall include a proposed distribution of the proceeds of the sale. All motions to sell shall be served on the Chapter 13 trustee, all creditors, all parties who have filed appearances and any other entity as the Court may direct.
 - (2) If an appraiser or real estate broker is involved in the sale, the Debtor must obtain court authority to employ the appraiser or broker by way of application. The application must be accompanied by an affidavit of disinterestedness signed by the broker, and shall also comply with the requirements of R.I. LBR 2014-1 and 6005-1.

RULE 7016-1 PRE-TRIAL PROCEDURE; FORMULATING ISSUES

- (a) **Scheduling Conference..** Unless otherwise ordered or unless an affirmative request is made by a party, the Court will not conduct a scheduling or pretrial conference in an adversary proceeding.
- (b) **Joint Pretrial Order.** In all adversary proceedings, a joint pretrial order conforming to the standards set forth in R.I. LBR 9014-1 and R.I. Bank. Form O shall be filed within the time prescribed by the court in the scheduling order.
- (c) **Scheduling Order.** A scheduling order shall issue from the Court within 45 days after the appearance of the defendant, unless the Court directs otherwise.

RULE 7026-1 DISCOVERY - GENERAL

- (a) **Disclosure Requirements.** Unless otherwise ordered, the disclosure requirements contained in Federal Rule of Bankruptcy Procedure 7026 apply to all adversary proceedings pending in this district.
- (b) **Time Limit for Rule 7026(f) Conference.** Within 21 days before the scheduling order is due under R.I. LBR 7016-1(c), the parties shall meet and confer pursuant to Federal Rule of Bankruptcy Procedure 7026(f).
- (c) **Contents of Discovery Plan.** Pursuant to Federal Rule of Bankruptcy Procedure 7026(f), within 14 days of the parties meeting, the parties shall file a discovery plan with the Court containing the information required by Rule 26(f)(1)-(4) (including the deadline for the close of discovery) and the following additional information:
 - (1) A proposed deadline to join other parties or amend the pleadings;
 - (2) A proposed deadline for filing dispositive and pre-trial motions;
 - (3) A proposed deadline for filing a Joint Pre-trial Order; and
 - (4) A statement whether the parties believe that referral of the dispute for mediation would be helpful and whether or not both parties agree to such a referral.

The Discovery Plan shall substantially comply with the form found in **R.I. Bankr. Form O.2 .**

- (d) **Affidavit of Noncompliance.** If either party fails to perform as required herein, the aggrieved party shall file an affidavit stating the facts which constitute the failure to cooperate. Upon consideration of an affidavit of noncompliance and any response thereto, the Court may order that the adversary proceeding proceed as a defaulted matter:
 - (1) When a matter brought by a plaintiff is in default as to the holding of the Fed.R.Bankr.P. 7026(f) conference or the filing of the discovery plan or any of the requirements specified in Fed.R.Bankr.P. 7026(f) and R.I. LBR 7026-1, the Clerk shall dismiss the matter for want of diligent prosecution. The party

in default may have the matter reinstated only upon showing special circumstances, by motion, filed within ten (10) days of the dismissal.

- (2) When a matter is in default by the defendant as to the holding of the Fed.R.Bankr.P. 7026(f) conference or the filing of the discovery plan or any of the requirements specified in Fed.R.Bankr.P. 7026(f) and R.I. LBR 7026-1, the defendant will not be allowed to present its defense at trial, except by leave of court, for cause shown.

- (e) **Discovery Materials Shall Not Be Filed with the Court.** See R.I. LBR 5005-1(d).

RULE 9010-1 ATTORNEYS - ADMISSION TO PRACTICE, REPRESENTATION AND APPEARANCES

- (a) **Admission to Practice.** An attorney who is in good standing of the bar of the Supreme Court of Rhode Island and is admitted to practice in the United States District Court for the District of Rhode Island shall be deemed admitted to practice in this Court.

[The remainder of this rule is unchanged].

RULE 9013-1 MOTIONS, BRIEFS AND MEMORANDA OF LAW

- (a) **Supporting Memorandum Required with all Written Motions and Responses.** The party filing a motion, application, petition [not including bankruptcy petition], objection to claim or objection to exemption (the “paper”), excluding those motions set forth in subdivision (d) below, and the party(ies) responding to any such paper, shall include with or within the paper a supporting memorandum containing the points and authorities in support of said party’s position, together with any verified statement or unsworn declaration or other material in support of said paper. Specific reference to the applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Rhode Island General Laws or other controlling authorities is required.
- (b) **Length and Form of Memoranda.** Except with leave of Court, initial briefs and memoranda of law shall be limited to twenty (20) pages, and reply briefs shall be limited to ten (10) pages. All memoranda/responses shall contain the full caption of the case, including the bankruptcy case number, the adversary proceeding number, if applicable, and the chapter

of the case. All text shall be double spaced, on 8 ½" x 11" paper, and the type set (font size) in the body of the memoranda shall not be less than 11 point. Footnotes shall not be less than 10 point, and may not contain material that belongs in the body of the text or argument, i.e., footnotes may not be used to circumvent the page limit imposed by this Rule.

- (c) **Response Time Required on All Motions.** See R.I. LBR 1005-1(d).
- (d) **Excepted Motions Where No Memorandum Required, Unless Otherwise Ordered:**
 - (1) Motion to extend time or continue hearing date;
 - (2) Motion to assign for hearing;
 - (3) Motion to add creditor(s), except in reopened cases;
 - (4) Motion to amend schedules;
 - (5) Motion to compel.
- (e) **Motions to be Excused from Court.** Whenever an attorney seeks to be excused from court, a motion shall be made in accordance with this local rule. The following information shall be included in the motion:
 - (1) Motion shall be in pleading format. The motion shall substantially comply with the form found in R.I. Bankr. Form Y, and shall include a heading at the top and a signature line at the bottom;
 - (2) The motion shall clearly state the time period sought for excusal from court;
 - (3) The motion shall state the reason for the excusal request;
 - (4) The motion shall contain the following language, "I have no matters scheduled for hearing in the Bankruptcy Court during said time period". If movant does have a matter scheduled for hearing, he/she must FIRST file a Motion to Continue the hearing. If the continuance is granted, movant may then file the Motion to be Excused. Alternatively, movant may indicate that he/she has made arrangements for a substitute attorney to appear in their absence (substitute attorney must be a member of the RI federal bar);
 - (5) An order granting a motion to be excused ONLY excuses counsel from court appearances during the period requested. Said order does not excuse counsel from court filing deadlines or from attendance at any Section 341 Meeting of Creditors. Excusal from a Section 341 meeting must be given by the trustee conducting the meeting;
 - (6) Failure to comply with the requirements contained in this rule will result in the issuance of a notice of defective pleading and will delay the disposition of the motion.

- (a) **Service of Motions.** In all instances not otherwise covered by the Federal Rules of Bankruptcy Procedure or these local rules, all motions filed with the Court shall be served on the following parties:
 - (1) the local office of the U.S. Trustee, with the exception of motions for relief from stay in Chapter 7 cases and all motions filed in Chapter 13 cases;
 - (2) any case trustee;
 - (3) any other party affected by the motion or having requested notice in the case (see Clerk's office service list); and
 - (4) the Debtor's attorney or debtor, if pro se, except for motions for relief from stay which are served by summons. See, R.I. LBR 4001-1(a).
- (b) **Contents of Certificate of Service.** The Certificate of Service shall reflect how and when service was made and shall include the names and addresses of all persons served and the name and address of the person certifying such service.
- (c) **Filing and Service of Certificate of Service.** When a certificate of service is required, it shall be filed with the Clerk contemporaneous with the motion or other paper. Failure to timely file the certificate of service with the Clerk will result in the motion or other paper being treated as a defective filing, and a notice to correct the deficiency will be given.
- (d) **Notice of Hearing.** Upon receipt of a hearing notice from the Court with instructions to serve other parties, counsel (or a pro se party) shall forthwith, and within any applicable notice deadlines contained in the Federal Rules of Bankruptcy Procedures, these local rules or established by the Court, serve said notice upon all affected persons and upon all persons who have filed their appearances and requested service of notices in the case. A certificate of service shall be filed with the Clerk in the manner provided for in subdivision (a).